

FIRST REGULAR SESSION

# SENATE BILL NO. 340

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODMAN.

Read 1st time January 22, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1198S.02I

## AN ACT

To repeal section 375.918, RSMo, and to enact in lieu thereof one new section relating to the use of credit scores by insurance companies.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 375.918, RSMo, is repealed and one new section enacted

2 in lieu thereof, to be known as section 375.918, to read as follows:

375.918. 1. As used in this section, the following terms mean:

2 (1) "Adverse action", [a denial, nonrenewal of, or a reduction in the  
3 amount of benefits payable or types of coverages under any contract, existing or  
4 applied for, in connection with the underwriting of insurance. An offer by an  
5 insurer to write a contract through an affiliated insurer does not constitute an  
6 adverse action] **the same meaning as defined in the Fair Credit Reporting  
7 Act, 15 U.S.C. Section 1681, et. seq. Adverse actions include, but are not  
8 limited to:**

9 (a) **Cancellation, denial, or nonrenewal of personal insurance  
10 coverage;**

11 (b) **Charging a higher insurance premium for personal insurance  
12 than would have been offered if the credit history or insurance credit  
13 score had been more favorable, whether the charge is by application of  
14 a rating rule, assignment to a rating tier that does not have the lowest  
15 available rates, or placement with an affiliate company that does not  
16 offer the lowest rates available to the consumer within the affiliate  
17 group of insurance companies; or**

18 (c) **Any reduction, adverse, or unfavorable change in the terms  
19 of coverage or amount of any personal insurance due to a consumer's**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 **credit history or insurance credit score. A reduction, adverse, or**  
21 **unfavorable change in the terms of coverage occurs when either the**  
22 **coverage provided to the consumer is not as broad in scope as coverage**  
23 **requested by the consumer but is available to other insureds of the**  
24 **insurer or any affiliate, or the consumer is not eligible for benefits such**  
25 **as dividends that are available through affiliated insurers;**

26 (2) "Contract", any automobile insurance policy as defined in section  
27 379.110, RSMo, or any property insurance policy as defined in section 375.001,  
28 [including such a policy on a mobile home or residential condominium unit or a  
29 policy of renters' or tenants' insurance] **private passenger automobile,**  
30 **homeowners, motorcycle, mobile homeowners, manufactured**  
31 **homeowners, condominium owners, renter's coverage, personal liability**  
32 **and theft coverage, personal inland marine coverage, mechanical**  
33 **breakdown coverage for personal auto or home appliances,**  
34 **noncommercial dwelling fire insurance policies, boat, personal**  
35 **watercraft, snowmobile, and recreational vehicle policies. The term**  
36 **"contract" shall also include professional liability and malpractice**  
37 **liability policies.** Contract shall not include any policy of mortgage insurance  
38 or commercial insurance;

39 (3) "Credit information", any insurance credit score or credit-  
40 related information derived from a credit report, found on a credit  
41 report itself, or provided on an application for insurance, but shall not  
42 include information that is not credit-related;

43 (4) "Credit report", any written or electronic communication of any  
44 information by a consumer reporting agency that:

45 (a) Bears on a person's credit worthiness, credit standing, or credit  
46 capacity; and

47 (b) Is used or collected wholly or partly to serve as a factor in the  
48 underwriting of a contract;

49 [(4)] (5) "Credit scoring entity", any entity that is involved in creating,  
50 compiling, or providing insurance credit scores;

51 [(5)] (6) "Insurance credit score", a **rating or** numerical representation  
52 [of the insurance risk a person presents using the person's attributes] derived  
53 [from] **by using a formula, algorithm, computer application, model, or**  
54 **other process that is based in whole or in part on the** credit report or  
55 credit information [in a formula to assess insurance risk on an actuarial or

56 statistical basis] **of an applicant;**

57        [(6)] (7) "Insurer", any insurance company or entity that offers a  
58 contract;

59        [(7)] (8) "Underwriting", the selection of the risk that will be assumed by  
60 the insurer on a contract, and specifically the decision whether to accept, deny,  
61 renew, nonrenew, reduce, or increase the amount of benefits payable, **premium**  
62 **rate for coverage**, or types of coverages under the contract.

63        2. An insurer using a credit report or insurance credit score as a factor in  
64 underwriting shall not take an adverse action based on such factor [without  
65 consideration of another noncredit-related underwriting factor].

66        3. No insurer shall take an adverse action against an applicant or insured  
67 based on inability to compute an insurance credit score [without consideration of  
68 another underwriting factor, unless the insurer can justify the credibility that the  
69 lack of an insurance credit score has in underwriting to the director of insurance].  
70 **No insurer shall consider an absence of credit information or an**  
71 **inability to calculate an insurance score in underwriting or rating**  
72 **personal insurance.**

73        4. [An insurer using a credit report or insurance credit score as a factor  
74 in underwriting a contract shall disclose at the time of the original application  
75 for the contract or on the application itself that the insurer may gather credit  
76 information.

77        5. An insurer using a credit report or insurance credit score as a factor in  
78 underwriting of a contract shall not take an adverse action on such contract based  
79 on information that is the subject of a written dispute between the policyholder  
80 or applicant and a consumer reporting agency, as noted in such person's credit  
81 report, until such dispute has reached final determination in accordance with the  
82 federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq. In the event  
83 that information is the subject of a written dispute under this subsection, the  
84 sixty-day period provided by section 375.002 or section 379.110, RSMo, shall be  
85 extended until fifteen days after the dispute reaches final  
86 determination. Nothing in this subsection shall be construed to require any  
87 consumer reporting agency, as defined by the federal Fair Credit Reporting Act,  
88 15 U.S.C. Section 1681, et seq., to include any information on a credit report  
89 beyond the extent required by the federal Fair Credit Reporting Act, 15 U.S.C.  
90 Section 1681, et seq.

91        6. If the use of a credit report or insurance credit score on a contract

92 results in an adverse action, the insurer shall provide the policyholder or  
93 applicant:

94 (1) Notice that a credit report or insurance credit score adversely affected  
95 the underwriting of the contract;

96 (2) The name, address, and telephone number of the consumer credit  
97 reporting agency that furnished the credit information, in compliance with the  
98 notice requirements of the federal Fair Credit Reporting Act, 15 U.S.C. Section  
99 1681, et seq.;

100 (3) Notice of the right to obtain a free credit report from the consumer  
101 credit reporting agency within sixty days; and

102 (4) Notice of the right to lodge a dispute with the consumer credit  
103 reporting agency to have any erroneous information corrected in accordance with  
104 the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.

105 7. Within thirty days from the date the insurer provides notice of an  
106 adverse action pursuant to subdivision (1) of subsection 6 of this section, the  
107 applicant or insured may in writing request from the insurer a statement of  
108 reasons for such action. For purposes of determining the thirty-day period, the  
109 notice of an adverse action is deemed received three days after mailing. The  
110 statement of reasons shall be sufficiently clear and specific so that a person of  
111 average intelligence can identify the basis for the insurer's decision without  
112 further inquiry. An insurer may provide an explanation of significant  
113 characteristics of the credit history that may have impacted such person's  
114 insurance credit score to meet the requirements of this subsection. Standardized  
115 credit explanations provided by credit scoring entities comply with this  
116 subsection.

117 8. If an insurer bases an adverse action in part on a credit report or  
118 insurance credit score, the applicant or insured may within thirty days of such  
119 adverse action make a written request for reunderwriting following any correction  
120 relating to the credit report or insurance credit score.

121 9. An insurer may obtain and use a current credit report or insurance  
122 credit score on new business or renewal contracts, but shall not take an adverse  
123 action with respect to renewal contracts based upon such credit report or  
124 insurance credit score until or after the third anniversary date of the initial  
125 contract.

126 10.] Insurance inquiries shall not directly or indirectly be used as a  
127 negative factor in any insurance credit scoring formula or in the use of a credit

128 report in underwriting.

129       [11.] 5. Nothing in this section shall be construed as superceding the  
130 provisions of section 375.002 and section 379.114, RSMo. Nothing in this section  
131 shall be construed as prohibiting any insurer from using credit information in  
132 determining whether to offer a policyholder or applicant the option to finance or  
133 establish a payment plan for the payment of any premium for a  
134 contract. Nothing in this section shall apply to any entity not acting as an  
135 insurer or credit scoring entity as defined in subsection 1 of this section.

136       [12.] 6. No credit scoring entity shall provide or sell to any party, other  
137 than the insurer, its insurance company affiliates or holding companies, and the  
138 producer from whom the inquiry was generated, data or lists that include any  
139 information that in whole or in part is submitted in conjunction with credit  
140 inquiries about consumers. Such information includes, but is not limited to,  
141 expiration dates, information that may identify time periods during which a  
142 consumer's insurance may expire, or other nonpublic personal information as  
143 defined under the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809. The  
144 provisions of this subsection shall not preclude the exchange of information  
145 specifically authorized under the federal Fair Credit Reporting Act, 15 U.S.C.  
146 Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to  
147 6809 and other applicable federal law. The provisions of this subsection shall not  
148 apply to data disclosed in connection with a proposed or actual sale, merger,  
149 transfer or exchange of all or a portion of an insurer's or producer's business or  
150 operating unit, including but not limited to, the sale of a portfolio of contracts, if  
151 such disclosure concerns solely consumers of the business or unit and such  
152 disclosure is not the primary reason for the sale, merger, transfer or exchange.

153       [13.] 7. A violation of this section may be enforceable under section  
154 374.280, RSMo.

155       [14.] 8. The provisions of this section shall apply to all contracts entered  
156 into on or **renewed** after July 1, [2003] **2008**.

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